

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:91 CR 1 CDP
)	
GERALD D. HOPKINS-BEY,)	
)	
Defendant.)	

**UNITED STATES’ SUPPLEMENTAL RESPONSE REGARDING DEFENDANT’S
MOTION FOR COMPASSIONATE RELEASE**

The United States of America, through undersigned counsel, supplements its opposition to Defendant’s Motion for Compassionate Release as follows. As of April 28, 2021, Defendant received both doses of the COVID-19 Pfizer-BioNTech Vaccine and is now fully vaccinated.¹ Thus, while individuals with defendant’s medical conditions² face increased risks related to COVID-19, in light Defendant’s vaccination, his health conditions no longer qualify as a “extraordinary and compelling reason” warranting his release.

Defendant has received both doses of the COVID-19 vaccine, which has been proven to eliminate the risk of severe illness from the virus. *See United States v. Groom*, No. 2:17-CR-159, 2021 WL 1220225, at *2 (S.D. Ohio Apr. 1, 2021) (noting that “the Pfizer vaccine was 95%

¹ The medical record reflecting Defendant’s vaccination has been provided to counsel for Defendant and the United States Probation Office and can be provided to the Court upon request.

² Defendant claimed several medical conditions made him “particularly vulnerable to having severe symptoms from a COVID-19 infection.” Doc. #399, p. 10. While several of Defendant’s medical conditions are believed to place an individual at an increased risk of severe illness from the virus that causes COVID-19, his receipt of the vaccine has ameliorated any risk posed in light of those conditions. *See Centers for Disease Control, People with Certain Medical Conditions*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last accessed June 1, 2021).

effective at preventing COVID-19 in people who did not have a previous infection” and “100% effective at preventing severe disease”); *United States v. Smith*, No. 17-CR-20753, 2021 WL 364636, at *2 (E.D. Mich. Feb. 3, 2021) (“According to the CDC, the Moderna vaccine is exceptionally safe and effective, preventing 94.1% of infections in clinical trials.”).

Therefore, even when coupled the present pandemic, his conditions no longer qualify as “extraordinary and compelling reasons” under section 1B1.13 because he no longer faces a diminished ability to provide self-care against serious injury or death as a result of COVID-19. *See, e.g., United States v. Isidaehomen*, No. 3:16-CR-0240-B-4, 2021 WL 243458, at *3 (N.D. Tex. Jan. 25, 2021) (finding that defendant’s medical conditions, some of which fall on the CDC’s list of COVID-19 risk factors, did not qualify as extraordinary and compelling reasons because she received both doses of the Pfizer vaccine); *United States v. Jones*, No. 3:19CR105, 2021 WL 217157, *5 (E.D. Va. Jan. 21, 2021) (denying compassionate release despite “serious medical concerns” related to COVID-19 because the defendant “faces reduced risks from the virus [after] receiv[ing] his first COVID-19 vaccination”); *see also United States v. Singh*, No. 4:15-CR-00028-11, 2021 WL 928740, at *3 & n.36 (M.D. Pa. Mar. 11, 2021) (noting that the “vast majority of courts” have found risks related to COVID-19 no longer constitute an “extraordinary and compelling reason” after an inmate is vaccinated and collecting 19 cases).

CONCLUSION

For the foregoing reasons and all the reasons set forth in its Response (Doc. #413), the United States respectfully requests that this Court deny Defendant’s motion, consistent with the overwhelming majority of courts that have considered requests for compassionate release in light of COVID-19 pandemic.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on June 2, 2021, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Lisa M. Yemm
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